IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10726 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GORDHANBHAI GOPALBHAI PATEL

Versus

DIRECTORATE OF HIGHER EDUCATION (10 + 2)

Appearance:

1. Special Civil Application No. 10726 of 2002

MR DAXESH T DAVE for Petitioner No. 1

MS MANISHA LAVKUMAR, AGP for Respondent No. 1-3

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 13/12/2002

ORAL JUDGEMENT

Rule. Ms Manisha Lavkumar, learned AGP waives service of Rule for the respondents.

2. What is challenged in this petition under Article 226 of the Constitution is the order dated 1.8.2002 passed by the State Government in the Education

Department rejecting the petitioner's appeal/representation against the order dated 25.6.2002 of the Commissioner of Higher Education rejecting the petitioner's application for opening a higher secondary school.

3. Apart from the other grievances, one major grievance made in the petition is that the impugned order is passed by the State Government without giving the petitioner any opportunity of being heard. It appears to the Court that on this ground alone, the petition deserves to be allowed and respondent No. 3 is required to be directed to consider and decide the petitioner's appeal/representation against the aforesaid order dated 25.6.2002 of the Commissioner of Higher Education after giving the petitioner an opportunity of personal hearing.

4. The petition is accordingly allowed, the order dt. 1-8-2002 at Ann. E is quashed and respondent No. 3 is directed to consider and decide the petitioner's appeal/representation against the aforesaid order dated 25.6.2002 of the Commissioner of Higher Education after giving the petitioner an opportunity of personal hearing. This shall be done within two months from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

Rule is made absolute with no order as to costs.

(M.S. Shah, J.)

sundar/-